

**Before the  
Federal Communications Commission  
Washington, D.C. 20544**

In the Matter of	)	
	)	
Petition for Declaratory Ruling that AT&T's	)	WC Docket No. 02-361
Phone-to-Phone IP Telephony Services Are	)	
Exempt from Access Charges	)	

**REPLY COMMENTS OF  
TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.**

Texas Statewide Telephone Cooperative, Inc. (TSTCI) hereby files these reply comments in response to comments filed in the above captioned proceeding.<sup>1</sup> TSTCI is an association representing 19 telephone cooperatives and 16 commercial companies that serve rural areas of Texas (please see Attachment I).

In its Petition, AT&T seeks exemption from interstate access charges for phone-to-phone IP traffic<sup>2</sup>. TSTCI agrees with those commenters who requested that the Commission 1). deny AT&T's Petition for a Declaratory Ruling, and 2). confirm that all interstate phone-to phone IP traffic is a telecommunications service subject to originating and terminating access charges<sup>3</sup>.

AT&T does not provide any valid justification in its petition for altering the Commission's tentative conclusion in its Report to Congress<sup>4</sup> that phone-to-phone IP telephone

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on AT&T's Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, Public Notice, DA 02-3184, Public Notice released November 18, 2002.

<sup>2</sup> Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges filed on October 18, 2002 (Petition), p. 33.

<sup>3</sup> See generally, GVNW Consulting, Inc.; John Staurulakis, Inc. (JSI); National Exchange Carriers Association (NECA); National Telecommunications Cooperative Association (NTCA); New Hampshire Public Utilities Commission (NHPUC); New York State Department of Public Service (NYDPS); Organization for the Promotion and Advancement of Small Telecommunications (OPASTCO); SBC Communications, Inc. (SBC); United States Telecom Association (USTA)

<sup>4</sup> *Federal-State Joint Board on Universal Service, Report to Congress*, 13 FCC Rcd. 11501 (1998) (Report to Congress).

services are telecommunications services and subject to access charges. In fact, numerous commenters have aptly demonstrated that phone-to-phone calls using IP technology are functionally the same as traditional telecommunications services.<sup>5</sup> As described by the New Hampshire Public Utilities Commission (NHPUC), “...long distance calling is not a new technology, and the insertion of a new technology in its routing does not change the nature of that calling. These calls use the same long lines; they use the same legacy network. They simply use a different transmission protocol for part of the transport of the call.”<sup>6</sup> Further, TSTCI agrees with these commenters that incumbent local exchange carriers (ILECs) should be compensated by interexchange carriers for the use of their facilities through access charges.

TSTCI concurs with the NHPUC’s belief that the access charge structure would be implicitly dismantled, and ultimately every long distance carrier would have an incentive to avoid paying access charges if the Commission were to reach a different conclusion regarding phone-to-phone IP telephony being a telecommunications service.<sup>7</sup> TSTCI has serious concerns about the consequences of such a decision to the small rural carriers and their customers. Rural carriers rely on access charge revenues for a substantial part of their revenue requirement needed to maintain affordable service, maintain service standards, and perform network upgrades. A decrease in access revenues will most certainly impose a greater burden of increased rates on the consumer. As OPASTCO correctly states, “AT&T is asking the Commission to endorse a situation which ultimately requires consumers to pay more for their access to the local loop in order to allow IXC’s to pay below cost for their access, contrary to the public interest and the

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<sup>5</sup> See generally, National Telecommunications Cooperative Association (NTCA); SBC Communications, Inc. (SBC); Organization for the Promotion and Advancement of Small Telecommunications (OPASTCO); GVNW Consulting, Inc.; New Hampshire Public Utilities Commission (NHPUC); New York State Department of Public Service (NYDPS).

<sup>6</sup> NHPUC, p. 7.

<sup>7</sup> Ibid.

goals of the Act.”<sup>8</sup> As pointed out by SBC, “5 percent of interstate switched access revenues amounts to *hundreds of millions of dollars on an annual basis*.”<sup>9</sup> As a result, it is clear that a decrease in access revenues caused by a migration to phone-to-phone IP telephony would have a devastating impact on local exchange companies, particularly the small rural companies, and ultimately the local exchange customer.

The scenario in which phone-to-phone IP traffic is exempt from access charges also raises future separations issues and the potential to shift costs to the intrastate jurisdiction. As NTCA points out, a ruling in AT&T’s favor would shift the burden of paying interstate costs from the interstate jurisdiction to the intrastate jurisdiction or to universal service.<sup>10</sup> If the Commission were to grant AT&T’s petition, it would create a precedent for state commissions who have not yet ruled on this issue and would have potentially adverse impacts on rural carrier revenue streams.

TSTCI also agrees with those parties who have opined that a decision by the Commission in favor of AT&T can adversely impact the viability of the universal service fund<sup>11</sup>. If the Commission were to exempt phone-to-phone IP and other VOIP traffic from access charges as requested by AT&T, regulations in which interexchange carriers and local exchange carriers contribute to the universal service fund (USF) would be materially changed, also to the detriment of small rural ILECs. As noted by NTCA, there would be an incentive for ...“all long distance providers to remove all traffic from the PTSN to an IP platform to avoid paying access charges and making universal service contributions. It would further increase the universal service burden on all remaining USF contributors and increase their contribution rates to a much higher

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<sup>8</sup> OPASTCO, p. 4.

<sup>9</sup> SBC, p. 18.

<sup>10</sup> NTCA, p. 6.

<sup>11</sup> NTCA, pp. 7-8; USTA, pp.ii-iii.; OPASTCO, pp. 4-5; NECA, p.7.

level than their rates today.”<sup>12</sup> TSTCI contends that this would not be in keeping with the intent of universal service.

The Commission’s decision regarding AT&T’s petition has the potential to impact small rural carriers in a significant way. TSTCI urges the Commission to deny AT&T’s petition and confirm that interstate phone-to-phone IP traffic is telecommunications service. As such, local exchange carriers will continue to be compensated for originating and terminating access.

Respectfully submitted,

TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.  
3721 Executive Center Drive, Ste. 200  
Austin, TX 78731

A handwritten signature in black ink that reads "Cammie Hughes". The signature is written in a cursive, flowing style.

Cammie Hughes  
Authorized Representative

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<sup>12</sup> NTCA, p. 7

**TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.**

Brazos Telecommunications, Inc.  
Brazos Telephone Coop., Inc.  
Cameron Telephone Company  
Cap Rock Telephone Coop., Inc.  
Central Texas Telephone Coop., Inc.  
Coleman County Telephone Coop., Inc.  
Colorado Valley Telephone Coop., Inc.  
Comanche County Telephone Company, Inc.  
Community Telephone Company, Inc.  
Cumby Telephone Coop., Inc.  
Dell Telephone Coop., Inc.  
E.N.M.R. Plateau Communications, Inc.  
Eastex Telephone Coop., Inc.  
Electra Telephone Company  
Etex Telephone Coop., Inc.  
Five Area Telephone Coop., Inc.  
Ganado Telephone Company, Inc.  
La Ward Telephone Exchange, Inc.  
Lake Livingston Telephone Company  
Lipan Telephone Company  
Livingston Telephone Company  
Mid-Plains Rural Telephone Coop., Inc.  
Nortex Communications, Inc.  
North Texas Telephone Company  
Panhandle Telephone Coop., Inc.  
Peoples Telephone Coop., Inc.  
Riviera Telephone Company, Inc.  
Santa Rosa Telephone Coop., Inc.  
South Plains Telephone Coop., Inc.  
Tatum Telephone Company  
Taylor Telephone Coop., Inc.  
Wes-Tex Telephone Coop., Inc.  
West Plains Telecommunications, Inc.  
West Texas Rural Tel. Coop., Inc.  
XIT Rural Telephone Coop., Inc.